(according to the desiderated law), a jury should be summoned to assess the amount of increased value for such perpetuity, either at an increased ground-rent, or in amount of purchase-money: at the option of the tenant so proposing. As no building has been erected on the plot, and as the term of surrender to the lord is so remote, a very trifling yearly increased rent would be surcharged on the original rent.

Or, suppose a case where the house and premises had been erected and the interest sold to an occupying tenant, and that ten years had elapsed (the vicinage being generally covered and occupied), then a comparatively larger, but still moderate, though increased amount of rental or purchase would be required.

Next take, for example, a house which may have been built forty years on an original lease of 80 years, which may have changed hands from purchaser to purchaser, and suppose the lease thereof has 40 years to run, at a ground rent of 50*l.* a-year (this is an ordinary case, as many mansions in the first situations have been leased at about 10*s.* a-foot, or say 50*l.* rental).

The same formalities of notice and valuations will follow. As the period of resumption by the landlord is more proximate, and the value of the buildings and locality are more considerable, then a larger award of compensation will be made by the jury; such as perhaps 500*l.* to purchase, or 25*l.* a-year to rent, added to the original head rent of 50*l.* a-year in perpetuity, if the tenant in occupation should be willing to take it at a rental.

In the same manner, the remaining unexpired terms of long leases at head-rents may be calculated, on the principles of justice and equity to both landlord and tenant; but in no case is it contemplated to affect or interfere with leases of houses let at rack-rent for 7, 14, or 21 years (reserving to the tenants the option of surrender at the determination of any seven years); nor would this be of general advantage to the class of occupiers who take houses with a view to short residence, either as standings for business or private residence: nor does equity seem to require in these cases any new modification, as such occupiers seldom outlay their capital on improvements.

The new law of enfranchisement would of course provide for the payment of the jurors (who should be professional men) and of the district surveyor, the charges for whom should be borne by the tenant or person issuing such notices.

The proceedings in this respect might be advantageously assimilated to those of valuations under railroad enactments, which appear to work well, and to give as little dissatisfaction as is possible between, on the one side, extortionate requirements, and parsimony or niggardliness on the other.

As matters now stand, the holders of out-running leases in valuable localities have no certitude of renewal at any price. The family residence held for 70 years at a rental fair at the time of its origination, and upon which 5 or 10,000*l.* has been sunk, may be denied to the occupier and given to another, or the owner may wish to play the same game over again,—not to accept a premium, but to impose a rack-rent of, say, 300*l.* (an ordinary advance), and the still more onerous imposition of a compulsory clause to rebuild, and to expend 10,000*l.* more, for the benefit of the succeeding heritors on the lapse of 60 years more.

The predicament of an occupier and lessee in some cases is still harder:—having a lease of some 20 years to run at the original head-rent renewed 60 years back; his house has fallen into decay, and is antiquated; requiring to be rebuilt, he proposes for a renewal, but is refused; such proposal is referred to the landlord's own committee of arbitration; but no, the lord has other views as to the house in question.

This is no imaginary case; it is matter of fact. So the unfortunate heritor or occupant of a favourite house is forced to abide in discomfort, if not slow torture and even imminent danger, or to throw up his term into the lap of the leviathan lord!

His tenement is crazy, he must prop it; the dry rot eats on its career, he must abide the issue; or if he be like the foolish builder (more foolish than he of the Scripture, for the certain mulct and forfeiture are before him), then he must lose his outlay—for even in case of an ultimate renewal, the sum expended will lay a reduplicated valuation at his door.

Although this thesis does not contemplate the complete purchase of all head rents, that object is far from being unattainable; for an Act of the Legislature might with perfect equity compass such an enfranchisement also, varying the purchase on a scale of unexpired years, from thirty-three years' purchase (the highest price of funds) down to fifteen years, graduated according to the extent of unexpired term. The purchase of the head rent would be as equitable as that of the term in perpetuity, saving the head rent.

Instead of increasing in house property, which may be called the only *fixed property* of the capital, the landlord class would, in the event of large conversion of their rents into money, become great capitalists, and the multitude renting houses must, on the other hand, become freeholders, with fixed local interests; and there can be no question as to the effect of such a change on the population; or that the subdivision of house ownership must have the best influence, whether with respect to their domestic comforts, their fiscal importance, or to the character of the buildings, that must in such case supplant the structures raised to endure but for a season.

The arts, chiefly architecture, have important concern in this subject; the municipal rights of every citizen are wound up in it, as are the interests of the present generation, but most of all, their heirs in the generation to come.

QUONDAM.

ON DILAPIDATIONS.

THIS subject is one that has never received proper consideration from the hands of a large class who are interested and affected by it—"tenants." Men who are daily imposing upon themselves heavy responsibilities, the extent, or the peculiar obligations, and the ultimate result of which they are totally unacquainted with.

Few persons on taking a lease think of raising objections to covenants which are, they are informed, of the usual character; or, if prudent enough to pledge themselves to an agreement of but three years, they fearlessly, and without hesitation, affix their signatures to a clause promising to "uphold, maintain, and sustain," &c., or that which really may turn out an impossibility; for some houses, so to speak, have the elements of destruction and disease upon them from their infancy. Bad brickwork, causing by its humidity damp walls, rots everything: unseasoned timber, that shrinks and twists in all directions, throwing floors out of their level, and making settlements from top to bottom, through which the doors and windows have to be constantly eased and rehung; faulty and imperfect drainage, which becomes constantly choked; the roof acting like a sieve: and this list of ills that modern houses are heir to is no exaggeration; yet many a man, and he, too, who may be esteemed in his own business a prudent man, is induced, from a want of consideration, readily to promise to do and perform all needful and necessary repairs, or at least to leave the house in tenantable repair. It is not a little amusing to observe the tenant's surprise at the end of his tenancy on receiving a notice of dilapidations. What! he exclaims, and leave the house 100 per cent. better than when I took it! This and the various sums of money paid to jobbing tradesmen, all the accounts of whom he can enumerate by heart, constitute the anchor of hope to the poor tenant, when informed, in spite of all the benefits the house has derived from him during his tenancy, that still such and such are dilapidations, and as such he is answerable for their being re-instated. In the present age, remarkable for the number of scantily-constructed houses, with so nice and clean, yet deceitful, an exterior, invitingly waiting for tenants on lease or agreement, it cannot fail to be useful to consider the nature of the obligation that exists between landlord and tenant upon the hire of house property; for as mistakes will happen in the best regulated families, so do the friendship and good understanding that may have existed between landlord and tenant suddenly cease with the termination of the lease. Covenants to repair, when once entered into, are irrevocable; it is, therefore, most important that each party should clearly understand what constitutes repairs or dilapidations; and as to all defects, whether they arise from accident, neglect, or decay, and by which party they are to be made good.

A landlord, on making a claim from his tenant for dilapidations, must shew that they are such as were stipulated for in the lease, as the obligation on the part of the tenant to make good varies, in nearly every case, according to the different covenants of the lease, by which the tenants are bound by more or less stringent clauses, involving greater or less responsibilities.

Mr. Gibbons, in an excellent treatise on this subject, defines dilapidations as the act or default of a person having to use a tenement, to the injury of another having a right to the same tenement, or a tenant's obligation may be considered as depending on the old maxim—"You must not injure another's property; but use it as your own."

It is an imperative act of justice to himself for the future tenant to make a stipulation that, previous to the commencement of his tenancy, the premises shall be surveyed; so that, if then there can be considered any thing unsound or defective on the premises, it may be made good before the agreement is concluded, otherwise the tenant will find that he must make good all, whatever was the state of repair when he took possession of the premises.

Houses held on lease.—In the case of premises being let on lease, a tenant should not be compelled to supply and make good defects that may arise from time and use, because, as the tenant bargained for use, and gives to the owner an equivalent rent, the landlord has a claim only for a restoration of the tenement as injured by the tenant, but has no right to make a claim for the wear to be made good; but then, as the tenant agrees to keep the house in tenantable repair, he is bound to supply all occasional and accidental defects which may expose the premises to premature decay. Accidents happening during his tenancy, if not inevitable, must be made good by the tenant, for it is fair to presume, that had he adopted proper precautions, the accident might have been prevented; therefore, there exists an obligation not to suffer dilapidations, and it is evident that the tenant is equally bound not to do any act that will cause an injury to the tenement.

Voluntary waste means an alteration in the tenement, it being held in law that a lessee cannot change the nature of the thing demised: the act of alteration exceeds the right to use, and infringes on the condition that the landlord shall receive back the premises in the same state and condition as when the lease was granted. It is, therefore, essential that a tenant contemplating an alteration or improvement should receive proper permission and authority from the landlord.

Permissive waste consists of a neglect on the part of a tenant to supply the repairs required by time and use, and also a neglect to make good occasional and accidental dilapidations. Houses and outbuildings are the principal subject of dilapidations, but the law extends to trees, land, changing the course of industry, &c.; but the chief subject is buildings. These, though subject to decay in the progress of time, are capable of having the defective or decayed parts made good, and are therefore subject to both permissive and voluntary waste.

A tenant hiring premises on lease is bound to perform tenantable repairs, which may be divided into three heads—the ornamental, which includes the trades of painter and paper-hanger; the substantial, which includes the trades of bricklayer and carpenter: the third includes all works which tend to preserve the fabric from decay—as stopping out wind and weather, which includes the trades of the joiner, plasterer, and glazier.

Dilapidations caused by accident are very serious upon a tenant, as not only is the accident considered as a dilapidation, but all injuries arising therefrom, of which the following is an illustration from Mr. Gibbons:—"If a building be covered with weather boarding, and such boarding decay from age, so long as it forms an entire and complete covering, it is no dilapidation, but if, owing to any neglect,

For Info on PDF Compression and OCR go to ThePaperlessOffice.org